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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/764,160	01/23/2004	Robert C. Lyne JR.	P1035.lyne	8161

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Robert C. Lyne, Jr.
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EXAMINER

JIMENEZ, MARC QUEMUEL

ART UNIT	PAPER NUMBER
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3726

DATE MAILED: 02/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

6

Office Action Summary	Application No. 10/764,160	Applicant(s) LYNE, ROBERT C.	
	Examiner Marc Jimenez	Art Unit 3726	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 November 2005.
 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4,6 and 8-22 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) ☒ Claim(s) 10-20 is/are allowed.
 6) ☒ Claim(s) 1-4,6,8,9,21 and 22 is/are rejected.
 7) ☒ Claim(s) _____ is/are objected to.
 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
 * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. **Claims 1-4, 6, 8, 9, 21 and 22** are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 has been amended to include the limitation “allowing the tool to be grasped and pulled upward to remove it from the tray” to the body of the claims. It is unclear whether applicant intends to claim a system including the tray and the tool or just the tray. If the invention is only directed to the tray, then the structural features of the tray should be defined rather than what the tool does. Alternatively, if the invention is directed to the combination of the tray and the tool (ie. the system), then the claims should be amended so that the preamble reads to the effect of “A system for installing including a tray and tool”.

Claim Rejections - 35 USC § 102

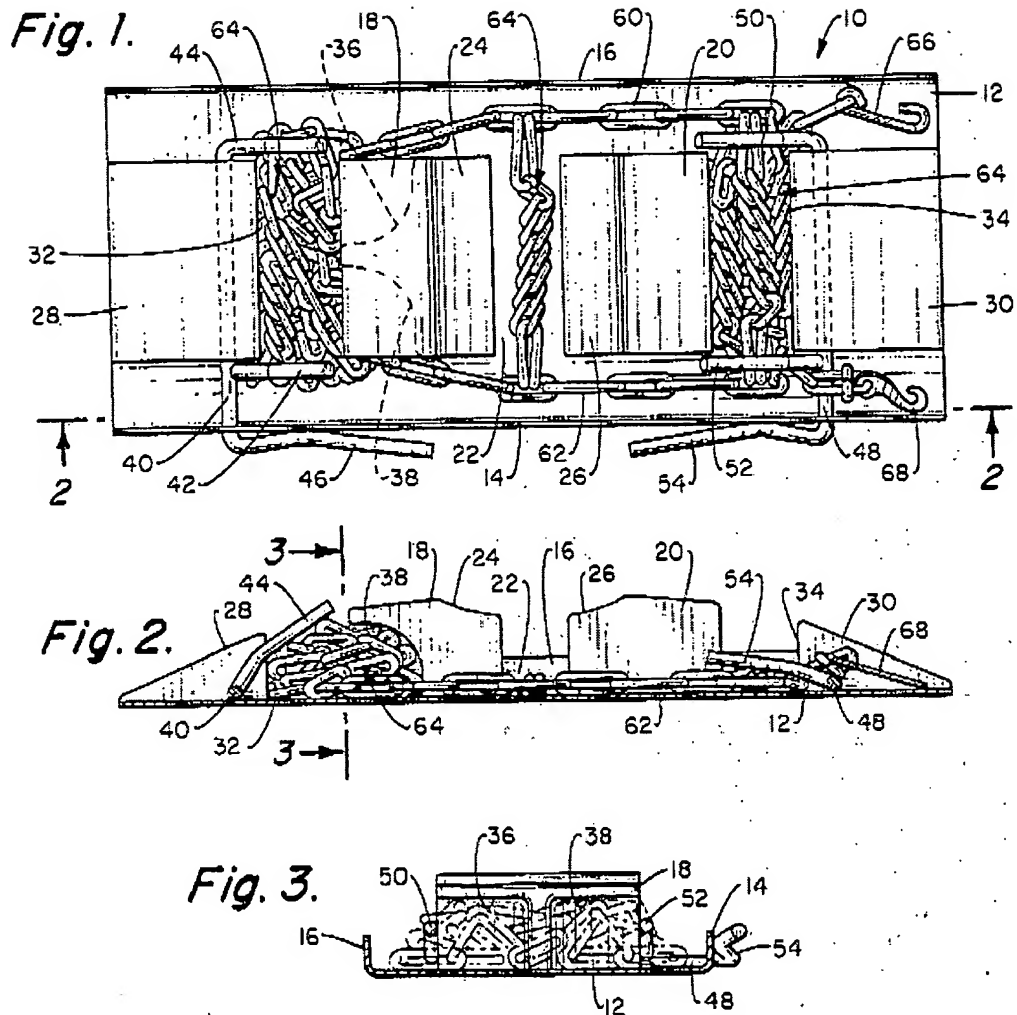
3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. **Claims 1, 2, 8, 9, and 22** are rejected under 35 U.S.C. 102(b) as being anticipated by Planz (US 3,893,500).

Planz teaches a base **12** having a longitudinal axis and, at opposite ends of the axis, a rear end **28** and a front end **30**, an exterior rear wall **28** and exterior side walls **14,16** projecting upwardly from the base **12**, a plurality of vehicle supports **24,26** projecting upwardly from the base **12** and being spaced from each other and from the side walls **14,16** so as to define longitudinal channels and transverse channels for receiving and confining laid-out side chains **62** and cross chains **64**, respectively, a well **64** for receiving side chains and cross chains which have not been laid out **38**, an interior wall projecting upwardly from the base defining, an upwardly facing compartment adjacent the well **64** for receiving the U-shaped tool and protecting from damage due to the weight of the vehicle, which compartment has a bottom defined by the base and a side defined by the interior wall, the interior wall being located between the well **64** and the compartment (the compartment is where the tool **44** is located, the compartment clearly has an “interior wall”), so as to keep the chain which has not been laid out contained in the well and thereby prevent it from coming into the compartment during storage or handling of the tray. It is noted that the compartment **64** could also be considered a “well” and the tool **54** could be considered a “U-shaped tool”. See also a copy of figures 1-3 of Planz below with each of the features labeled corresponding to the claimed invention.



Regarding claims 2-3, the wall defining the compartment where tool 44 or 54 is located is sufficiently high and is defined by a plurality of walls.

Regarding claim 4, the well 64 is defined by the rear wall and portions of the side walls 16, 14.

Regarding claim 7, the side walls **14,16** have a relatively greater height defining the well **64** and a relatively lesser height near the supports **24,26**. The side walls are relatively greater in height compared to the well and a relatively lesser height compared to the supports.

Regarding claim 8, the interior wall **32** separates the well **64** from a substantial portion of the compartment.

Regarding claim 9, since there are two tools **44,54**, one could be considered a “U-shaped tool” and the other could be considered “a chain element holder”.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. **Claim 6** is rejected under 35 U.S.C. 103(a) as being unpatentable over Planz in view of Douglas et al. (US 3,845,875).

Planz teaches the invention cited with the exception of having stacking lugs and stacking recesses.

Douglas et al. teach stacking lugs **16** and stacking recesses (above **16** in figure 5).

It would have been obvious to one of ordinary skill in the art, at the time of the invention, to have provided the invention of Planz with stacking lugs and stacking recesses, in light of the teachings of Douglas et al., in order to be able to stack multiple trays for storage and shipping

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purposes.

Allowable Subject Matter

7. Claims 10-20 are allowed.
8. Claims 3, 4, and 21 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

9. Applicant's arguments filed 11/30/05 have been fully considered but they are not persuasive.
10. In response to applicant's argument that the Planz reference does not teach a "compartment", it is noted that the Planz reference is considered to meet the "compartment" limitation. According the definition of "compartment" provided by Applicant, "compartment" could be "a separate section". Therefore, Planz clearly teaches at least this definition of compartment.
11. In response to applicant's argument that "the tool is not picked up and removed from the tray", a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. It is noted that the claims do not require that the tool be

completely removed from the tray. The tool 44 could be rotated away from contact with the tray surface 12.

Conclusion

12. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Interviews After Final

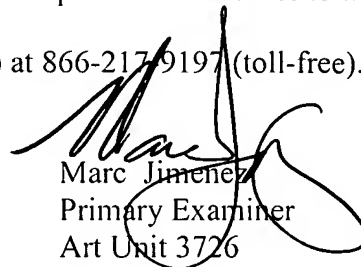
13. Applicant note that an interview after a final rejection will not be granted unless the intended purpose and content of the interview is presented briefly, in writing (the agenda of the interview must be in writing) to clarify issues for appeal requiring only nominal further consideration. Interviews merely to restate arguments of record or to discuss new limitations will be denied. See MPEP 714.13 and 713.09.

Contact Information

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marc Jimenez whose telephone number (571) 272-4530. The examiner can normally be reached on Monday-Thursday between 5:30 a.m.-4:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, George Nguyen can be reached on (571) 272-4690. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Marc Jimenez
Primary Examiner
Art Unit 3726

MJ

2/15/06